1. **Summary of Office Action**

In the Final Office Action mailed May 21, 2010, the Examiner rejected claims 1-13 and 27-40 under 35 U.S.C. § 103(a) as being unpatentable over U.S. 5,659,250 ("Hendricks") in view of EP 1 100 266 A2 ("Gaske").

2. **Status of Claims**

Currently pending are claims 1-13 and 27-40 of which claim 1 is independent and the remainder of the claims are dependent. Claims 14-26, 41-44 and 46-83 were previously withdrawn and claim 45 was previously cancelled.

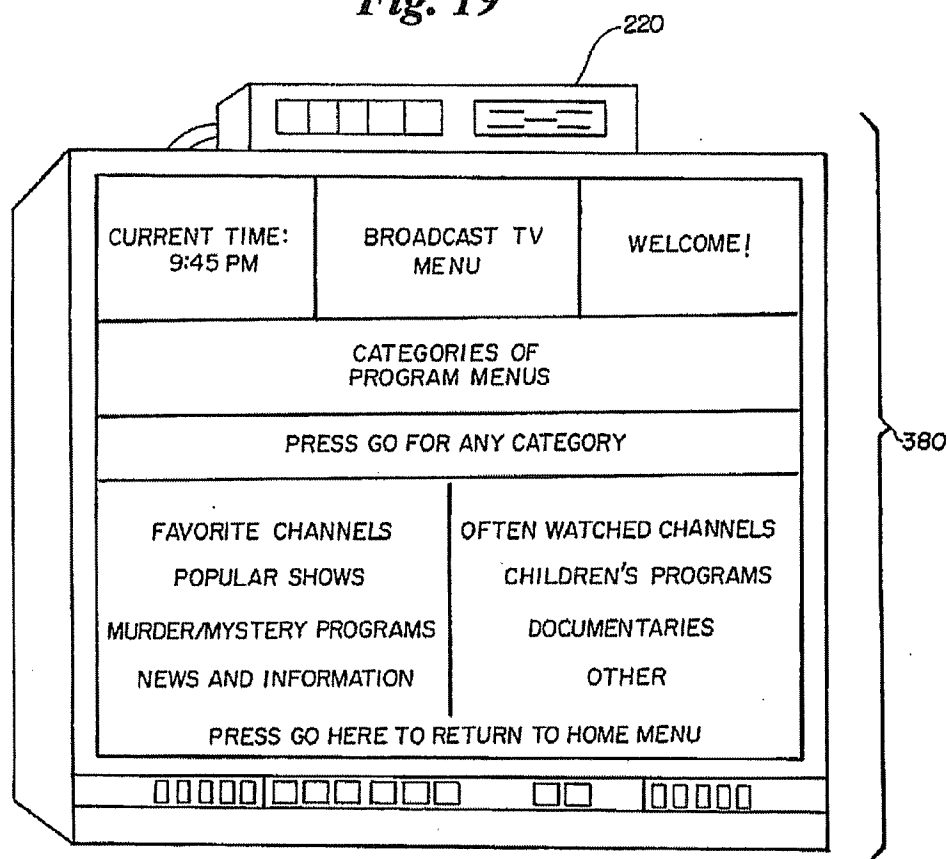No claims have been amended in this response to the Final Office Action.

3. **Response to Rejections under 35 U.S.C. § 103(a)**

   A. **The Hendricks Prior Art Creates On-Screen Program Menus From Which The Viewer Selects Programs To Be Watched**

Hendricks *creates on-screen menus from which the viewer can select programs he/she wishes to watch*. Hendricks is described as "a particularly useful invention" that "will provide users with the ability to select programs from on-screen menus." Col. 3, lines 11-16. Hendricks discloses a program delivery system that "acquires viewer information on programs watched" to create an "individualized program lineup" for the viewer. Col. 3, lines 59-65. It describes "creating menus that are displayed on a subscriber's television by using an array of menu templates." Col. 11, lines 3-4.

Figures 19-21 show such customized menus and the example of Figure 19 of an on-screen menu from which the viewer can select programming is provided below.

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive, Suite 3200
Chicago, Illinois 60606
312-913-0001

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Fig. 19

Thus, Hendricks *creates on-screen program menus that rely on the user to select programming* to be viewed. It does not disclose a "discovery service" to search for programming content and does not "download content based on a content profile." Rather, it is the viewer that selects the programming to be viewed.

B.   Hendricks Does Not Disclose Applicants' Claimed "Discovery Service" to "Search for Stored Media Content and to Download Content Based On a Content Profile"

Hendricks relies entirely on the viewer selecting programming from the on-screen program menus. Because Hendricks relies on user selected programming, it does not disclose Applicants' claimed discovery service that "searches for stored media content" and "downloads

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive, Suite 3200
Chicago, Illinois 60606
312-913-0001

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content based on a content profile." For instance, the Examiner's rejection in the Final Office Action cites to Hendricks as disclosing the claimed "discovery service."

4.   Applicant argues, regarding claim 1, as currently amended, that nothing in the cited prior teaches, discloses or suggests "a discovery service, provided on the first or second platform operable to search for stored media content and to download content based on a content profile."

5.   Examiner respectfully disagrees. Attention is directed to Hendricks at col 9 In 66-62. Also, col 15 In 28-55 col 16 In 10-22, col 16 In 36-45.

Final Office Action, May 21, 2010, page 2.

The Examiner's cited sections (col. 9, lines 62-66, col. 15, lines 28-55 and col. 16, lines 36-45), however, do not disclose Applicants' claimed discovery service that both searches for and downloads content as discussed below.

1. Column 9 of Hendrick Discloses Modifying a Control Signal In Case of Last Minute Changes to Provide "On the Fly" Operation

The cited passage of column 9 does not disclose Applicants' claimed discovery service. Rather, column 9, lines 62-66 refer to the network controller 214 that "enables the delivery system to adapt the specific requirements of the individual set top terminals 220." It explains that the "network controller 214 is able to respond to the immediate needs of a set top terminal 220 by modifying the program control signal" in order for the network controller 214 to "adapt to the specific requirements of individual set top terminals 220 when the requirements cannot be provided to the operations center 202 in advance."

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive, Suite 3200
Chicago, Illinois 60606
312-913-0001

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The paragraph goes on to explain that this enables "on the fly programming" changes to

provide specialized TV services-not a discovery service to search and download content as called

for by independent claim 1.

> In other words, the network controller 214 is able to perform 'on the fly programming' changes. With this capability, the network controller 214 can handle sophisticated local programming needs such as, for example, interactive television, split screen video and selection of different foreign languages for the same video.

Col. 9, line 66-col. 10, line 7.

Thus, the cited passage in column 9 of Hendricks does not disclose Applicants' claimed

discovery service to search for and download content based on a content profile.

2. Hendrick Column 15 Discloses "Retrieval of Viewer Data" for "Menu Creation," Not The Claimed Discovery Service

Similarly, the Examiner's rejection based on columns 15 and 16 of Hendricks do not

disclose Applicants' claimed discovery service. Column 15 lines 28-55 refer to "the retrieval of

viewer data" obtained "from set top terminals" and "then filtering and presenting the data" in the

on-screen menu. Col. 15, lines 32-34. The raw data includes "programs a user purchased and

when," "what channel a specific user watched and for how long."

The retrieved viewer data is used to calculate "How many viewers watched a particular

program," "Peak viewing times for different categories of shows," and "Buy rates for particular

menu positions." Col. 15, lines 41-55. This information is then used for "Menu creation, both

automatically and manually." Col. 15, line 51.

Contrary to the Examiner's citation, column 15 of Hendricks does not discuss nor

disclose searching and downloading programming content as called for by Applicants' claims.

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive, Suite 3200
Chicago, Illinois 60606
312-913-0001

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The cited passage is for "retrieval of viewer data" obtained "from set top terminals" to creating programming menus to display to viewers.

3. Hendrick Column 16 Discloses an "Executive Information System" Providing a "Software Tool" For Use by TV Executives

Similarly, the Examiner's citation to column 16, lines 36-45 also does not show Applicants' claimed discovery service. In fact, the cited passage is directed toward an "Executive Information System" to provide high-level television executives "an online software tool that will allow for the real-time evaluation of current product positioning." Col. 16, lines 35-37. TV executives are provided with "friendly icons" to provide "general information on the current programming sales status" without a "long learning curve and information overload." Col. 16, lines 35-44. The passage describes how "The graphical tools allow for analysis of current data through the use of multiple graph tool types such as line graphs, bar and pie charts. Col. 16, lines 45-47. It does not disclose a discovery service for downloading program content as called for by independent claim 1.

Paragraph 12 of the Final Rejection also argues that Hendricks discloses downloading content based on a content profile, "(e.g., col. 16, lines 45-53). Final Office Action, May 12, 2010, page 4. Again, the cited passage describes the Executive Information System to enable a television executive to create menus with the appropriate programming mix in the allotted time slots. The cited passage discloses how the menus are created and populated—it does not discuss downloading actual program content.

B.   The Gaske Prior Art Also Does Not Disclose Or Suggest The Claimed Discovery Service

In addition, the cited Gaske prior art is also absent the claimed "discovery service." Gaske does not disclose or suggest a discovery service that searches for and downloads content based on a content profile.

As such, because the references, either alone or in combination, do not show all the elements of independent claim 1, claim 1 is allowable. All the remaining pending claims 2-13 and 27-40 are dependent on claim 1 and are also allowable as well.

CONCLUSION

The Applicants submit that the application is in good and proper form for allowance and respectfully request the Examiner to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney, at 312-913-2134.

Respectfully submitted,

Date: July 21, 2010   By: /George I. Lee/
                                               George I. Lee
                                               Registration No. 39,269